

EXHIBIT J

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

**DECLARATION OF LEONARD A. DAVIS IN SUPPORT OF CO-LEAD CLASS
COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND
REIMBURSEMENT OF COSTS AND EXPENSES**

LEONARD A. DAVIS declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a partner of the law firm of Herman, Herman & Katz, LLC ("HHK"). I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through July 15, 2016, as well as for the payment of expenses incurred therewith. I have personal knowledge of

the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

2. HHK, at the request of and as directed by Co-Lead Counsel, Chris Seeger, actively participated in common benefit litigation matters against the NFL parties. The time and expense incurred by HHK specifically dealt with research, assessment, analysis and expert specific issues relating to head and brain injuries. Research and preparation of materials applicable to the cause and treatment of concussions was provided by HHK which assisted in the development of the terms and conditions of the settlement. Furthermore, HHK attended specific brain injury conferences and provided input as to the terms and conditions outlined in the settlement document. HHK also participated in preparation of the “road show” that was intended to educate potential class members regarding the settlement and the terms and conditions of the settlement program. Meetings and conferences also took place with Co-Lead Counsel, as well as members of the Levin Fishbein law firm to assist in the litigation. Partner, Leonard Davis, and of counsel MB/JD, Joseph Kott, primarily participated for HHK. Joseph Kott brought the experience of over 20 years of practicing neurosurgery prior to becoming of counsel at HHK (of which he has been associated approximately 20 years) to the common benefit efforts that were contributed to the litigation.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of common benefit time spent by the attorneys and professional support staff of my firm who were involved in this Action, and the lodestar calculation for those individuals based on my firm’s current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates of such personnel in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly

prepared and maintained by my firm. Time expended in preparing this application for attorney's fees and expenses has been excluded.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are the same as the regular rates charged for their services in other contingent matters and have been accepted by other federal courts in other class action cases prosecuted by my firm. The overwhelming majority of HHK's work is done on a percentage basis, whether by contingency fee contract or as may be approved by the Court in a common benefit case. In some cases, there may be an hourly measure, which is cross-checked against a percentage or reasonableness, (and/or for allocation purposes, recognizing the relative contribution of the firms participating in a collective fee award), but the ultimate "hourly rates" vary widely, and are generally unknown at the commencement of the litigation. Accordingly, the rates submitted herein are a good faith effort to attempt to put some reasonable value on our time, based on the specific nature of the case, where and how and by whom the case was litigated, our general role and responsibilities in the case, the guaranteed hourly rates that may have been paid to defense counsel, and other relevant factors and circumstances.

5. The total number of hours expended on the common benefit of this Action by my firm during the time period is 136.3 hours. The total lodestar attorney time for my firm is \$89,660.00.

6. My firm's lodestar figures are based solely upon my firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. My firm is seeking reimbursement of a total of \$0 in common benefit expenses incurred in connection with the prosecution of this Action.

8. With respect to the standing of my firm to share in an award of fees, costs, and expenses, attached hereto as Exhibit 2 is a biography the attorneys in my firm who were principally involved in this Action. A full biography of HHK can be obtained at my firm's website located at www.hhklawfirm.com.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 9, 2017, at New Orleans, Louisiana.



Leonard A. Davis

EXHIBIT 1

**IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY
LITIGATION**

No. 12-md-2323-AB

HERMAN, HERMAN & KATZ

LODESTAR REPORT

Inception through July 15, 2016

NAME	HOURS	HOURLY RATE	AMOUNT
PARTNERS:			
Leonard A. Davis	39.4	\$800	\$31,520
ASSOCIATES:			
STAFF ATTORNEYS:			
OF COUNSEL ATTORNEYS:			
Joe Kott	96.9	\$600	\$58,140
PARALEGALS:			
TOTALS:	136.30		\$89,660

EXHIBIT 2



Leonard A. Davis

Partner

Tulane University School of Law

J.D. 1984

University of Texas at Austin

B.A. 1981

Practice Areas:

Complex Multi-District Litigation; Class Actions; Products Liability; Property Damage; Corporate Law; Personal Injury; Wrongful Death; Business and Commercial Law; Railroad Crossing and Derailment Litigation.

Court Admissions:

Louisiana; U.S.D.C. Eastern, Middle and Western Districts of Louisiana; and U.S. Fifth Circuit Court of Appeals.

Memberships:

Louisiana State Bar Association; Louisiana Association for Justice; New Orleans Bar Association; Federal Bar Association; American Bar Association (Member, Business Law Section); American Association for Justice; Mass Tort Trial Lawyers Association.

Court Appointments:

MDL-2047 *In Re: Chinese-Manufactured Drywall Products Liability Litigation* Already Remediated Homes Committee; MDL-2243 *In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)* Plaintiffs' Steering Committee; MDL-2197 *In Re: DePuy Orthopaedics, Inc. ASR Hip Implant Products* Plaintiffs' Steering Committee; MDL 2436 *In Re: Tylenol (Acetaminophen) Marketing, Sales Practices and Products Liability Litigation* Plaintiffs' Steering Committee.

Published Works:

"Handling Railroad Grade Crossing Cases," *Trial Magazine*, November 1999. "Chinese Drywall Settlements Claims-Filing Deadline is August 26, 2013," *Louisiana Advocates* (August 2013).

Recognitions:

Best Lawyers in America, 2010-present. Best Lawyers 2017 Lawyer of the Year, Mass Tort Litigation/Class Actions – Plaintiffs. *Louisiana Super Lawyers*, 2009-2017; AV Peer Review Rated by *Martindale-Hubbell*; *Benchmark Litigation*, 2013; *City Business* Leadership in Law Award, 2010. *Law Dragon* Leading Lawyers in America, 2007; *Legal 500*, 2008-2009; *New Orleans Magazine's* Top Lawyers of 2013; 2013 Top Rated

Lawyer in Mass Torts Law by American Lawyer Media and Martindale-Hubbell.

Presentations:

“Problems in Discovery, Railroad Litigation,” ATLA Annual Convention – Chicago 1994; “Using Mock Juries, Consultants & Focus Groups,” ATLA Annual Convention - New York 1995; “Expanding Your Practice: Business Litigation Skills,” March 1995; “Discovering the Railroad and Dealing with its Discovery Abuses,” ATLA Annual Convention - New Orleans 1996; “Discovery Checklist for a Business/Corporate Litigation Matter,” ATLA Annual Convention - Boston 1996; “Discovery of the Railroad,” ATLA Annual Convention - Boston 1996; “The Right to Discover Trade Secrets,” August 1996; “Experts in a Railroad Crossing Case,” ATLA Annual Convention - San Diego 1997; “Discovering the Corporate Insides of the Railroad,” ATLA Annual Convention - San Diego 1997; “The Opening Statement - Using It In Railroad Cases to Maximize the Plaintiff’s Advantage,” ATLA Annual Convention - Washington, D.C. 1998; “Demonstrative Evidence from Cheap to Expensive,” ATLA Annual Convention - San Francisco 1999; “Technology for the Trial Lawyer: Cutting Costs and the Cutting Edge,” ATLA National College of Advocacy - Washington, D.C. 1999; “Scott v. Philip Morris, Inc. and the Fate of Medical Monitoring Claims,” Andrews Tobacco Litigation 2000; “Hot Topics in Discovering the Inside of the Corporate Railroad,” ATLA Annual Convention – Chicago 2000; “Dealing with 23 USC 409 Issues,” ATLA Annual Convention – Montreal 2001; “Propulsid Litigation,” ATLA Annual Convention – Montreal 2001; “Discovery and Evidentiary Issues Dealing with Electronic Evidence,” 13th Annual Advanced Computer & Cyberspace Law CLE Program, University of Dayton Law School – June 2002; “Collaboration for Litigation Groups and Mass Torts,” ATLA Annual Convention – Atlanta 2002; “Efficient Discovery Through Use of Technology,” ATLA Annual Convention – Atlanta 2002. Invited attendee to The Judicial Conference Advisory Committee on the Federal Rules of Civil Procedure Conference on Electronic Discovery, February 20, 2004. “Practical Electronic Discovery,” Fear Factor Seminar, October 13, 2006. “Preparing Your Settlement Package,” Mealey’s Vioxx Settlement Conference, December 10, 2007. “Alternative Dispute Resolution,” NBI, Handling the Auto Injury Claim, February, 21, 2008. “Disaster Preparedness – Katrina: How a Law Practice Survived,” San Diego Chapter of the American Academy of Matrimonial Lawyers, April 12, 2008. “Demonstrative Evidence,” NBI, Litigating to Win Through Advanced Trial Advocacy, April 25, 2008. “Handling Catastrophic Disaster Claims” AAJ Annual Winter Convention, Miami Beach Florida, October 1, 2008. “Preparing for the Rule 26(F) Conference,” NBI, E-Discovery Now What, December 16, 2008. “The Purpose, Procedure & Strategy of Discovery,” National Business Institute, December 17, 2010. “Motions for Sanctions,” Louisiana State Bar Association, March 25, 2011. “A Paperless World? Documentary Discovery in an MDL Proceeding,” Harris

Martin's MDL Conference, September 26, 2011. "The Case Against Taishan/Taihe" Harris Martin Chinese Drywall Conference, October 20, 2011. "Motions for Sanctions," Louisiana State Bar Association Motion Practice CLE, December 20, 2011. "Mass Torts Quick Hits - You Gotta Know When to Hold 'Em, When to Fold 'Em: Chinese Drywall," Mass Torts Made Perfect, April 20, 2012. Eastern District of Louisiana: The Nation's MDL Laboratory – A Symposium Presented by The Louisiana Law Review, March 22, 2013. "Making the Numbers Sing," 2013 LSBA Jazz Fest Seminar – Spice Up Your Trial, April 26, 2013. "Dealing With China: Lessons Learned From Chinese Drywall Litigation," Harris Martin Lumber Liquidators Flooring Litigation Conference, May 17, 2015. New Orleans Bar Association's Procrastinators' Programs – Ethics, December 16, 2015.

Reported Cases:

Haney v. Delta Petroleum Co., Inc., 811 So.2d 1200 (La. App. 4 Cir. Mar 06, 2002); Haney v. Delta Petroleum, Co., 748 So. 2d 36 (La.App. 4 Cir. 1999); Leiching v. Conrail, 1997 U.S. Dist. LEXIS 3561; Gottsegen v. Diagnostic Imaging Svcs., 672 So. 2d 940 (La. App. 5 Cir. 1996); Ellvog, Inc. v. Schnadelbach, 661 So. 2d 1062 (La. App. 4 Cir. 1995); Sanders v. Wysocki, 631 So. 2d 1330 (La. App. 4 Cir. 1994); Stephens Imports, Inc. v. Abraham, 557 So.2d 467 (La.App. 4 Cir. Feb 15, 1990); Shames v. City of San Diego, Superior Court for the State of California for the County of San Diego, No. GIC 831539; In re: Chinese Drywall MDL-2047; In re: Vioxx MDL-1657; In re: Propulsid MDL-1355; In re: Rezulin MDL-1348; In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II), MDL-2243; In Re: DePuy Orthopaedics, Inc. ASR Hip Implant Products, MDL-2197.

Professional Bio:

Leonard A. Davis is a partner of Herman, Herman & Katz, L.L.C, as well as the national firm of Herman Gerel, LLP, headquartered in Atlanta, Georgia. After receiving his B.A. from the University Texas at Austin, Mr. Davis attended Tulane University School of Law where he received his Juris Doctorate in 1984. Mr. Davis' practice includes corporate law, commercial litigation, complex business litigation, multi-district litigation, mass torts, class actions and railroad crossing matters. He is an AV-rated attorney with *Martindale-Hubbell*. Mr. Davis is a member of the Louisiana State Bar Association, New Orleans Bar Association, Federal Bar Association, American Bar Association (Member of the Business Law Section), American Association for Justice, The Mass Tort Lawyers Association and the Louisiana Association for Justice. He is also a member of the Million Dollar Advocates Forum. He has written articles on railroad litigation for several publications, including *Trial Magazine*, and spoken at numerous seminars. He is an Adjunct Assistant Professor of Law at Tulane Law School. Mr. Davis is active in the community and serves on or has served on several boards of the New Orleans Museum of Art, Louisiana Children's Museum, Jewish Endowment Foundation, Tulane University Medical Center Chancellor's Advisory Council, the Anti-

Defamation League, New Orleans Music Legends and numerous other charitable and non-profit organizations.



Joseph A. Kott, M.D. Attorney

Loyola University School of Law
J.D. 1996

Louisiana State University School of Medicine
Neurosurgery Residency 1981
M.D. 1975

Tulane University
B.S. 1970

E-mail: jkott@hhklawfirm.com

Practice Areas:

Medical Negligence, Personal Injury, Wrongful Death, Pharmaceutical Litigation, Medical Products Litigation

Bar and Court Admissions:

Louisiana; U.S.D.C. Eastern District of Louisiana; Fifth Circuit Court of Appeals; Louisiana Supreme Court

Professional and Civic Activities:

- Louisiana State Bar Association
- American Association for Justice
- Louisiana Association for Justice
- Louisiana State Medical Society
- Jefferson Parish Medical Society
- The American Board of Neurological Surgery
- American College of Surgeons

Honors and Awards:

- Diplomate of the American Board of Professional Liability Attorneys with special competence in the area of Medical Professional Liability.
- *Louisiana Super Lawyers*, 2016-2017

Professional Bio:

Dr. Joseph A. Kott is of counsel with Herman, Herman & Katz, L.L.C. Dr. Kott received his Juris Doctorate from Loyola University School of Law in 1996. He graduated with a B.S. degree from Tulane University in 1970, with a major in Psychology. Following graduation from Tulane University, he attended Louisiana State University School of Medicine and received his M.D. in 1975. After completing his neurosurgical residency at Louisiana State University Charity Hospital Department of Neurosurgery in 1981, Dr. Kott became board certified in neurosurgery

in 1983 and maintained an extensive neurosurgical practice until his retirement in 1997.

Dr. Kott now practices as a trial lawyer in the area of medical negligence and medical products liability litigation. He is a member of the Louisiana State Bar Association, the Louisiana Association for Justice, the American Association for Justice, Louisiana State Medical Society, Jefferson Parish Medical Society, The American Board of Neurological Surgery and the American College of Surgeons.

